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04 DEC 17 P1:39

December 6, 2004

US ENVIRONMENTAL
PROTECTION AGENCY
REGION V

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Ms. Karen Peaceman

Associate Regional Counsel

United States Environmental Protection Agency

77 West Jackson Boulevard

Chicago, Illinois 60604

**Re: Consent Order and Final Agreement
DaimlerChrysler Corporation
RCRA-5-2001-0015
RCRA-03-2002-0257
RCRA-07-2002-0198**

Dear Karen:

Pursuant to paragraph 112 of the Consent Agreement and Final Order dated September 30, 2002 (CAFO), I am writing to request an extension of the deadlines regarding paragraphs 82, 86 and 87 of the CAFO.¹ These provisions concern compliance with 40 C.F.R. Subpart BB or then applicable authorized state requirements. An extension is required to work through with EPA what we believe is an issue of form, not substance.

The matter involves the new rule EPA promulgated in the Surface Coating of Automobile and Light-Duty Trucks NESHAP at 40 C.F.R. Part 263, Subpart IIII (the "Auto MACT"). The specific rule exempts purged coatings and solvents from surface coating operations from Subpart BB of RCRA if the coating operation is subject to the Auto MACT. See 40 C.F.R. § 264.1050(h) and § 265.1050(g).

DaimlerChrysler has three automotive assembly facilities with surface coating operations in Detroit, Warren and Sterling Heights, Michigan. DaimlerChrysler recognized that Michigan's adoption of this new Auto MACT rule, and EPA's authorization of that rule, might not take place in time to allow DaimlerChrysler to meet the CAFO deadlines in paragraphs 82, 86 and 87. Accordingly, on April 20, 2004, DaimlerChrysler requested the Michigan Department of Environmental Quality ("DEQ") to grant DaimlerChrysler an exemption from the Subpart BB rules. In a letter dated May 17, 2004, DEQ responded:

¹ The deadlines were extended by EPA to October 8 and December 8, 2004.

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The Department of Environmental Quality (DEQ) intends to pursue adoption of the [Subpart BB] exemption. As the DEQ is currently finishing rule amendments to Part 111, there will exist a period of time when DaimlerChrysler automobile and light truck surface coating facilities will be subject to both the surface coating rule and Subpart BB requirements. During this period, the DEQ will not require compliance with Subpart BB regulations where a facility is subject to the National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks exemption from Subpart BB under the federal hazardous waste regulations in anticipation of pursuing amendments to the Part 111 administrative rules.

This DEQ letter memorializes a waiver that, as the CAFO contemplates, relieves DaimlerChrysler of any obligation to comply with the state's Subpart BB rules.²

The DEQ letter also confirms that DEQ has decided not to apply its Subpart BB rules to DaimlerChrysler's surface coating operations. There are thus no "applicable requirements" under Subpart BB for our three Michigan assembly plants. The federal government also no longer requires that automobile coating operations meet Subpart BB. Therefore, as a substantive matter, DaimlerChrysler is not required to comply with Subpart BB at its Michigan assembly plants under either federal or state requirements.

Late last week, however, we informally learned that some EPA personnel believe that the language in the CAFO still requires DaimlerChrysler to actually comply with Subpart BB. DaimlerChrysler respectfully disagrees with that position, and in any event, it is not now possible for DaimlerChrysler to meet the time frame currently set forth under the CAFO.

We are optimistic that if we have some time to work with you, we can resolve this matter so that form does not prevail over substance. Possibilities include a carefully drafted certification, amendment of the CAFO, the exercise of EPA's enforcement discretion, or a longer extension until DEQ completes its rulemaking adopting the new Auto MACT rule and it is authorized by EPA. Given the holidays, we request a thirty day extension to work with you to craft a solution. If the extension is granted, and if you would like, we would be pleased to provide you with some specific options to start off the discussions with you.

Please note that we will send you information on our facilities in Delaware, Illinois, Missouri and Ohio under separate cover. However, we believe it is more efficient for EPA and us to handle certification for all of the facilities together. Therefore, we also ask that the extension apply to all DaimlerChrysler facilities that are subject to the CAFO.

² Michigan's rules do not mandate any particular procedure for providing such waivers pending the formal rulemaking contemplated by the MDEQ in its May 17, 2004 letter. That formal rulemaking, under MCL 24.201 et seq., requires a multiple step process involving not only the MDEQ, but also Michigan's Office of Regulatory Reform, its Legislative Service Bureau, and the Michigan Legislature's Joint Committee on Administrative Rules.

Ms. Karen Peaceman

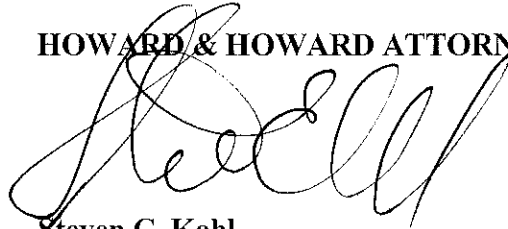
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In light of the deadline we face on December 8, your immediate attention to this would be greatly appreciated. Please call me as soon as possible at (248) 723-0320 with your response, or if you would like to discuss this request further.

Very truly yours,

HOWARD & HOWARD ATTORNEYS, P.C.

A handwritten signature in black ink, appearing to read 'S. Kohl', written over the printed name.

Steven C. Kohl

c: Kathleen M. Hennessey
Joseph Boyle
Duncan Campbell
Christine McCulloch